



AGENDA REPORT
SAN CLEMENTE CITY COUNCIL MEETING
Meeting Date: June 19, 2012

Agenda Item 66
Approvals:
City Manager [Signature]
Dept. Head [Signature]
Attorney _____
Finance _____

Department: Finance & Administrative Services
Prepared By: Kumi Elston, Central Services Officer

Subject: *LEASE AGREEMENT FOR SAN CLEMENTE SHERIFF SUBSTATION*

Summary: When the City of San Clemente contracted with the Orange County Sheriff's Department (OCSD) for police services in 1993, one of the requirements placed on OCSD was to maintain a substation in San Clemente. A lease was prepared for OCSD to lease the former San Clemente Police Station as the substation. The lease had a term of ten years with an additional ten year option. The lease is scheduled to expire on July 15, 2013.

A new lease agreement has been prepared by the County's Real Property Agent. The new lease term runs concurrently with the Police Services contract and will be indefinite unless the Police Services contract between OCSD and the City terminates. There are no other changes from the original lease agreement.

Recommended

Action: STAFF RECOMMENDS THAT the City Council approve and authorize the Mayor to sign a lease agreement for the San Clemente substation.

Fiscal Impact: None

Attachments: Lease Agreement

Notification: County of Orange
Sheriff/Real Property Services
Attention: Ray Weems
320 N. Flower Street, Suite 108
Santa Ana, CA 92703



Name of Agency/Department: Sheriff-Coroner
Project Number: GA 1227-43-1
Project Name: San Clemente Sheriff Substation

LEASE AGREEMENT

THIS IS A LEASE ("Lease") made _____, 2012, by and between the City of San Clemente (hereinafter referred to as "LESSOR") and the COUNTY OF ORANGE, a political subdivision of the State of California (hereinafter referred to as "COUNTY") without regard to number and gender. The term "COUNTY" shall mean the Board of Supervisors of the political body that executed this agreement or its authorized representative.

1. DEFINITIONS (1.2 S)

"Auditor Controller" means the Auditor Controller, County of Orange, or designee, or upon written notice to LESSOR, such other person or entity as shall be designated by the Board of Supervisors.

"Board of Supervisors" means the Board of Supervisors of the County of Orange, a political subdivision of the State of California.

"Corporate Real Estate" means OC Public Works, OC Facilities and Real Estate, Corporate Real Estate, County of Orange, or upon written notice to LESSOR, such other entity as shall be designated by the Director of OC Public Works.

"County Counsel" means the County Counsel, County of Orange, or designee, or upon written notice to LESSOR, such other person or entity as shall be designated by the County Executive Officer or the Board of Supervisors.

"County Executive Officer" means the County Executive Officer, County Executive Office, County of Orange, or designee, or upon written notice to COUNTY, such other person entity as shall be designated by the Board of Supervisors.

"Sheriff" means the Sheriff-Coroner, County of Orange, or its designee, or upon written notice to LESSOR, such other person or entity as shall be designated by the Board of Supervisors.

31. PREMISES (1.2 S)

LESSOR leases to COUNTY that certain property hereinafter referred to as "Premises," described in "Exhibit A" and shown on "Exhibit B," which exhibits are attached hereto and by reference made a part hereof, together with non-exclusive, in common use of LESSOR's elevators, stairways, washrooms, hallways, driveways for vehicle ingress and egress, pedestrian walkways, other facilities and common areas appurtenant to COUNTY's Premises created by this Lease.

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2. PARKING (1.3 N)

LESSOR shall provide COUNTY, throughout the term of this Lease, with free and in-common use of the parking area designated on **Exhibit B** as "County Parking Area A" for use as determined by COUNTY. Said parking area shall be available to COUNTY on a twenty-four-hour-per-day, seven-day-per-week basis.

LESSOR shall, throughout the term of this Lease, provide COUNTY with the free and exclusive use of the parking area designated on **Exhibit B** as "County Parking Area B" for use as determined by COUNTY.

Within said County Parking Areas A and B, LESSOR shall provide parking for disabled persons in accordance with the Americans with Disabilities Act, Section 7102 of the California Uniform Building Code and the applicable codes and/or ordinances relating to parking for disabled persons as established by the local jurisdiction in which the Premises is located where the provisions of such local codes and/or ordinances exceed or supersede the State requirements.

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3. TERMINATION OF PRIOR AGREEMENTS (1.4 S)

It is mutually agreed that this Lease shall terminate and supersede any prior agreement between the parties hereto covering all or any portion of the Premises, except for those terms relating to continuing obligations for events during the terms of that prior agreement between the parties hereto, including but not limited to indemnification, EXCEPT that all personal property and/or equipment (e.g., fixtures, partitions, counters, shelving) attached to and/or placed upon any portion of the Premises by COUNTY pursuant to the terms of any prior agreement between the parties hereto shall remain the personal property of COUNTY, who shall have the right to remove same.

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4. TERM (2.2A N)

The term of the Lease shall commence the first day of the first full calendar month following the date of execution by COUNTY ("Commencement Date") and shall be indefinite unless the Police Services contract between the Sheriff and the city of San Clemente terminates, at which time this Lease shall also terminate. LESSOR shall provide COUNTY with prior written notice of termination per the termination provisions of the Police Services contract.

Parties agree that the Commencement Date of this Lease will be confirmed in writing by either party upon demand by the other.

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5. OPTION TO TERMINATE LEASE (2.4 N)

COUNTY shall have the option to terminate this Lease at any time upon giving LESSOR written notice at least sixty (60) days prior to said termination date.

LESSOR shall have the option to terminate this Lease at any time upon giving COUNTY written notice at least one-hundred eighty (180) days prior to said termination date.

1 **6. RENT (3.1 N)**

3 COUNTY and LESSOR agree that rent for the duration of the lease term shall be free to the COUNTY
5 in consideration of the public benefit of this Lease.

7 **7. CARPETING BY LESSOR (4.3 N)**

9 Concurrent with each re-carpeting of LESSOR's building, LESSOR shall re-carpet, at LESSOR's sole
11 expense, all carpeted surfaces within the Premises. Said re-carpeting shall be accomplished during
13 hours other than COUNTY's normal working hours. LESSOR shall be responsible for the movement
15 and subsequent replacement of all furniture and fixtures necessary to re-carpet the Premises.
COUNTY shall disconnect all computers and phone equipment and shall reconnect when the work is
finished. Carpet shall be installed in the same manner and shall be of the same kind and quality as
the carpet being installed in the rest of LESSOR's building.

17 **8. ALTERATIONS (4.4 S)**

19 COUNTY may make improvements and changes in the Premises, including but not limited to the
21 installation of fixtures, partitions, counters, shelving, and equipment as deemed necessary or
23 appropriate by the COUNTY in its discretion. It is agreed that any such fixtures, partitions, counters,
25 shelving, or equipment attached to or placed upon the Premises by COUNTY shall be considered as
personal property of COUNTY, who shall have the right to remove same. COUNTY agrees that the
Premises shall be left in as good condition as when received, reasonable wear and tear excepted.

27 **9. ORANGE COUNTY TELECOMMUNICATIONS NETWORK (OCTNET) (4.5 S)**

29 LESSOR agrees that COUNTY may install, at COUNTY's sole cost and expense, telecommunication
31 devices in, on, or around the Premises and LESSOR's building in accordance with COUNTY's
33 OCTNET plans and specifications provided that the provisions of the clause entitled ALTERATIONS
shall be applicable to such work. It shall be COUNTY's responsibility to obtain all governmental
permits and/or approvals required for such installation; however, LESSOR shall reasonably cooperate
with COUNTY as necessary or appropriate, to obtain said permits and/or approvals.

35 **10. REPAIR, MAINTENANCE, AND JANITORIAL SERVICES (5.1 N)**

37 LESSOR shall provide at its own cost and expense all repair, maintenance, (including fire
39 extinguishers), and janitorial supplies and services to Premises, including but not limited to the
41 replacement, repair and maintenance of the Heating, Ventilation, Air Conditioning ["HVAC"] system, as
necessary. Janitorial supplies and services shall be provided on a five-day-per-week basis in
accordance with **Exhibit C** (JANITORIAL SPECIFICATIONS) attached hereto and made a part
hereof.

43 Air conditioning will be supplied to cause the temperature in the interior of the Premises to be not
45 greater than 76 degrees at all times and heat will be supplied as necessary to cause the temperature
47 to be not less than 70 degrees at all times.

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1 In order for the COUNTY to comply with the California Code of Regulations, Title 8, Section 5142, and
3 as it may be subsequently amended, LESSOR shall inspect the HVAC system at least once every
5 month or on a schedule agreed to in writing by LESSOR and COUNTY, and provide repair and
7 maintenance accordingly. LESSOR's inspections and maintenance of the HVAC system shall be
9 documented in writing. The LESSOR shall at a minimum maintain a record of: (a) the name of the
11 individual(s) inspecting and/or maintaining the system, (b) the date of the inspection and/or
13 maintenance, and (c) the specific findings and actions taken. The LESSOR shall ensure that such
15 records are retained for at least five (5) years. The LESSOR shall make all HVAC records required by
17 this section available to COUNTY for examination and copying, within forty-eight (48) hours of a
19 written request. LESSOR acknowledges that COUNTY may be subject to fines and/or penalties for
21 failure to provide said records to regulatory agencies within the given timeframes. Should COUNTY
23 incur fines and/or penalties as a direct result of LESSOR's failure to provide said records to COUNTY,
25 LESSOR shall reimburse COUNTY for said fines and/or penalties within thirty (30) days upon written
27 notice.

15 If LESSOR fails to provide satisfactory repair, maintenance, and janitorial services to the Premises,
17 Sheriff may notify LESSOR in writing; and if LESSOR does not instigate measures to provide
19 satisfactory service and/or to remedy the unsatisfactory conditions within four (4) days after COUNTY
21 has placed such notice in the mail to LESSOR directed to the address shown for LESSOR in the
23 clause entitled (NOTICES) below, or has personally delivered such notice to LESSOR, COUNTY may
25 provide the repair, maintenance, and/or janitorial service necessary to remedy the unsatisfactory
27 condition and assure satisfactory service or have others do so. COUNTY shall submit an invoice to
29 LESSOR for the cost thereof, including COUNTY overhead and LESSOR shall pay said invoice within
31 thirty (30) days after receipt.

25 If LESSOR fails to provide satisfactory janitorial supplies to Premises, Sheriff may notify LESSOR
27 either verbally or in writing; and if LESSOR does not provide janitorial supplies within twenty-four (24)
29 hours after LESSOR has received such notice from COUNTY, COUNTY may provide the janitorial
31 supplies necessary or have others do so. COUNTY shall submit an invoice to LESSOR for the cost
33 thereof, including COUNTY overhead and LESSOR shall pay said invoice within thirty (30) days after
35 receipt.

33 If LESSOR or its representative cannot be contacted by COUNTY for emergency repairs and/or
35 services the same day any emergency repairs and/or services are necessary to remedy the
37 emergency condition, or if LESSOR following such contact by COUNTY is unable or refuses to make
39 the necessary repairs or provide the necessary services, COUNTY may at its option have the
41 necessary repairs made and/or provide services to remedy the emergency condition. COUNTY shall
43 submit an invoice to LESSOR for the cost thereof, including COUNTY overhead and LESSOR shall
45 pay said invoice within thirty (30) days after receipt. In the event that COUNTY has notified LESSOR
47 at least three (3) times as provided in this paragraph of LESSOR's failure to provide satisfactory
49 repair, maintenance and janitorial services to the Premises, then regardless of whether said failure
were ultimately cured by LESSOR, COUNTY shall have the right for the remainder of the County of
Orange fiscal year to take over all such repair, maintenance and janitorial services for the Premises.
COUNTY shall submit an invoice to LESSOR for the cost thereof, including COUNTY overhead.
LESSOR shall pay said invoice within thirty (30) days after receipt. This additional right of self help
shall reset at the commencement of each fiscal year of the COUNTY during the term of the Lease.

1 Should COUNTY be forced to shut down its operations within the Premises due to LESSOR's failure
2 to provide services required by this clause, LESSOR shall be responsible for the cost, to the
3 COUNTY, of such a shutdown as well as the cost of replacement Premises.

5 LESSOR shall provide COUNTY with a complete copy of the janitorial contract covering the Premises,
6 including the janitorial schedule and any other exhibits.

7 **11. UTILITIES (5.2 N)**

9 LESSOR shall be responsible for and pay, prior to the delinquency date, all charges for utilities
11 supplied to the Premises except telephone, which shall be the obligation of COUNTY.

13 **12. INSURANCE (5.3 S)**

15 **Commercial Property Insurance:** LESSOR shall obtain and keep in force during the term of this
16 Lease a policy or policies of commercial property insurance with all risk or special form coverage,
17 covering the loss or damage to the Premises to the full insurable value of the improvements located
18 on the Premises (including the full value of all improvements and fixtures owned by LESSOR) at least
19 in the amount of the full replacement cost thereof, and in no event less than the total amount required
20 by any lender holding a security interest.

22 LESSOR agrees to and shall include in the policy or policies of commercial property insurance a
23 standard waiver of the right of subrogation against COUNTY by the insurance company issuing said
24 policy or policies. LESSOR shall provide COUNTY with a Certificate of Insurance as evidence of
25 compliance with these requirements.

27 **Commercial General Liability Insurance:** LESSOR shall obtain and keep in force during the term
28 of this Lease a policy or policies of commercial general liability insurance covering all injuries occurring
29 within the building and the Premises. The policy or policies evidencing such insurance shall provide
30 the following:

- 31 1) Name COUNTY as an additional insured;
- 33 2) Shall be primary, and any insurance or self-insurance maintained by COUNTY shall be excess
34 and non-contributing;
- 35 3) Shall provide thirty (30) days prior written notice of cancellation and (10) days for non-payment
36 of premium to COUNTY,
- 37 4) Shall provide a limit of One Million Dollars (\$1,000,000) per occurrence; and
- 39 5) The policy or policies of insurance must be issued by an insurer licensed to do business in
40 State of California (California Admitted Carrier) or have a minimum rating of A- (Secure A.M.
41 Best's Rating) and VIII (Financial Size Category) as determined by the most current edition of
42 the Best's key Rating Guide/Property-Casualty/United States or ambest.com. If
43 the insurance carrier is not an admitted carrier in the state of California and does not have an
44 A.M. Best rating of A-/VIII, CEO/Risk management retains the right to approve or reject a
45 carrier after a review of the company's performance and financial ratings.

1 Prior to the Commencement Date of this Lease and upon renewal of such policies, LESSOR shall
3 submit to COUNTY a Certificate of Insurance and required endorsements as evidence that the
foregoing policy or policies are in effect.

5 If LESSOR fails to procure and maintain the insurance required to be procured by LESSOR under this
7 Lease, COUNTY may, but shall not be required to, order such insurance and deduct the cost thereof
plus any COUNTY administrative charges from the rent thereafter payable.

9 **13. LIABILITY (5.4 S)**

11 LESSOR and COUNTY each agree to assume sole responsibility to defend against any and all claims
13 for injuries to persons or damage to property which may arise, in whole or in part, from the imposition
of legal liability for the acts, omissions and conduct of the LESSOR on the one hand or COUNTY on
15 the other, and specifically agree that neither LESSOR nor COUNTY shall be obligated to defend or
indemnify the other for claims which create potential legal liability arising out of the acts, omissions or
conduct of the other party to this Lease.

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19 **14. TAXES AND ASSESSMENTS (5.6 S)**

21 All taxes and assessments which become due and payable upon the Premises shall be the full
responsibility of LESSOR, and LESSOR shall cause said taxes and assessments to be paid prior to
the due date. Should LESSOR fail to pay taxes and assessments due upon the Premises prior to the
23 due date, COUNTY may pay such amount due. COUNTY shall submit an invoice to LESSOR for
the cost thereof, including COUNTY overhead and LESSOR shall pay said invoice within thirty
25 (30) days after receipt.

27 **15. BUILDING AND SAFETY REQUIREMENTS (5.7 S)**

29 During the full term of this Lease, LESSOR, at LESSOR's sole cost, agrees to maintain the Premises
31 in compliance with all applicable laws, rules, regulations, building codes, statutes, and orders as they
are applicable on the date of this Lease and as they may be subsequently amended.

33 Included in this provision is compliance with the Americans with Disabilities Act (ADA) and all other
35 federal, state, and local codes, statutes, and orders relating to disabled access as they are applicable
on the dates of this Lease, and as they may be subsequently amended.

37 LESSOR further agrees to maintain the Premises as a "safe place of employment," as defined in the
California Occupational Safety and Health Act (California Labor Code, Division 5, Part 1, Chapter 3,
39 beginning with Section 6400) and the Federal Occupational Safety and Health Act, where the
provisions of such Act exceed, or supersede, the California Act, as the provisions of such Act are
41 applicable on the date of this Lease, and as they may be subsequently amended.

43 In the event LESSOR neglects, fails, or refuses to maintain said Premises as aforesaid, COUNTY
45 may, notwithstanding any other termination provisions contained herein:

- 47 A. Terminate this Lease; upon written notice to the LESSOR; or

1 B. At COUNTY's sole option, cure any such default by performance of any act, including
2 payment of money, and submit and invoice to LESSOR for the cost thereof, and LESSOR
3 shall pay said invoice within thirty (30) days after receipt.

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5 **16. TOXIC MATERIALS (5.9 S)**

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7 COUNTY hereby warrants and represents that COUNTY will comply with all laws and regulations
8 relating to the storage, use and disposal of hydrocarbon substances and hazardous, toxic or
9 radioactive matter, including, but not limited to, those materials identified in Title 26 of the California
10 Code of Regulations (collectively "Toxic Materials"). COUNTY shall be responsible for and shall
11 defend, indemnify and hold LESSOR, its officers, directors, employees, agents, and representatives,
12 harmless from and against all claims, costs and liabilities, including attorneys' fees and costs arising
13 out of or in connection with the storage, use, and disposal of Toxic Materials on the Premises by
14 COUNTY. If the storage, use, and disposal of Toxic Materials on the Premises by COUNTY results in
15 contamination or deterioration of water or soil resulting in a level of contamination greater than
16 maximum allowable levels established by any governmental agency having jurisdiction over such
17 contamination, COUNTY shall promptly take any and all action necessary to clean up such
18 contamination.

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20 Likewise, LESSOR hereby warrants and represents that LESSOR has in the past and will hereafter
21 comply with all laws and regulations relating to the storage, use and disposal of Toxic Materials.
22 LESSOR shall be responsible for and shall defend, indemnify and hold COUNTY, its officers,
23 directors, employees, agents, and representatives, harmless from and against all claims, costs and
24 liabilities, including attorneys' fees and costs arising out of or in connection with the previous, current
25 and future storage, use and disposal of Toxic Materials on the Premises (or building if the Premises
26 comprises only a portion of said building) by LESSOR. If the previous, current and future storage,
27 use, and disposal of Toxic Materials on the Premises by LESSOR results in contamination or
28 deterioration of water or soil resulting in a level of contamination greater than maximum allowable
29 levels established by any governmental agency having jurisdiction over such contamination, LESSOR
30 shall promptly take any and all action necessary to clean up such contamination.

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32 **17. SUBORDINATION, ATTORNMENT AND NON-DISTURBANCE (6.4 N)**

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34 This Lease and all rights of the COUNTY hereunder are subject and subordinate to any mortgage or
35 deed of trust which does now or may hereafter cover the Premises or any interest of LESSOR therein,
36 and to any and all advances made on the security thereof, and to any and all increases, renewals,
37 modifications, consolidations, replacements and extensions of any such mortgage or deed of trust
38 except, insofar as COUNTY is meeting its obligations under this Lease, any foreclosure of any
39 mortgage or deed of trust shall not result in the termination of this Lease or the displacement of
40 COUNTY.

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42 In the event of transfer of title of the Premises, including any proceedings brought for foreclosure or in
43 the event of the exercise of the power of sale under any mortgage or deed of trust, or by any other
44 transfer of title covering the Premises, COUNTY shall attorn to and recognize any subsequent title
45 holder as the LESSOR under all terms, covenants and conditions of this Lease. COUNTY's
46 possession of the Premises shall not be disturbed by the LESSOR, or its successors in interest, and
47 this Lease shall remain in full force and effect. Said attornment shall be effective and self-operative

1 immediately upon succession of the current title holder, or its successors in interest, to the interest of
LESSOR under this Lease.

3 Notwithstanding the above, this Lease is contingent upon LESSOR obtaining a *Subordination,*
5 *Attornment and Non-Disturbance Agreement* from any lender who currently holds a loan against the
Premises. All future lenders on the Premises shall, upon initiation of their interest in the Premises,
7 enter into a *Subordination, Attornment and Non-Disturbance Agreement* with COUNTY thereby
insuring COUNTY of its leasehold interests in the Premises. Said *Subordination, Attornment and*
9 *Non-Disturbance Agreement* shall be in the form of COUNTY's standard form *Subordination,*
Attornment and Non-Disturbance Agreement or in a form approved by Sheriff, Corporate Real Estate
11 and County Counsel.

13 Foreclosure shall not extinguish this Lease, and any lender or any third party purchasing the Premises
at foreclosure sale shall do so subject to this Lease and shall thereafter perform all obligations and be
15 responsible for all liabilities of the LESSOR under the terms of this Lease.

17 Upon default by LESSOR of any note or deed of trust, COUNTY may, at its option, make all lease
payments directly to Lender, and same shall be applied to the payment of any and all delinquent or
19 future installments due under such note or deed of trust.

21 **18. ESTOPPEL CERTIFICATE (6.5 S)**

23 COUNTY agrees that its Sheriff shall furnish from time to time upon receipt of a written request from
LESSOR or the holder of any deed of trust or mortgage covering the Premises or any interest of
25 LESSOR therein, COUNTY's standard form *Estoppel Certificate* containing information as to the
current status of the Lease. The *Estoppel Certificate* shall be approved by COUNTY's Sheriff,
27 Corporate Real Estate, and County Counsel.

29 **19. DEFAULTS AND REMEDIES (6.8 S)**

31 The occurrence of any of the following shall constitute an event of default:

- 33 • Failure to pay any installment of any monetary amount due and payable hereunder;
- 35 • Failure to perform any obligation, agreement or covenant under this Lease.

37 In the event of any non-monetary breach of this Lease by COUNTY, LESSOR shall notify COUNTY in
writing of such breach, and COUNTY shall have fifteen (15) days in which to initiate action to cure said
breach.

39 In the event of any non-monetary breach of this Lease by LESSOR, COUNTY shall notify LESSOR in
writing of such breach and LESSOR shall have fifteen (15) days in which to initiate action to cure said
41 breach.

43 In the event of any monetary breach of this Lease by COUNTY, LESSOR shall notify COUNTY in
writing of such breach, and COUNTY shall have fifteen (15) days in which to cure said breach, unless
45 specified otherwise within this Lease.

1 In the event of any monetary breach of this Lease by LESSOR, COUNTY shall notify LESSOR in
3 writing of such breach, and LESSOR shall have fifteen (15) days in which to cure said breach, unless
specified otherwise within this Lease.

5 **20. LABOR CODE COMPLIANCE (6.10 N)**

7 LESSOR acknowledges and agrees that all improvements or modifications required to be performed
9 as a condition precedent to the Commencement Date of the term of this Lease or any such future
improvements or modifications performed by LESSOR at the request of COUNTY shall be governed
11 by, and performed in accordance with, the provisions of Article 2 of Chapter 1, Part 7, Division 2 of the
Labor Code of the State of California (Sections 1770, et seq.), as applicable. These provisions are
13 applicable to improvements or modifications costing more than \$1,000.

15 Pursuant to the provisions of Section 1773 of the Labor Code of the State of California, LESSOR shall
17 comply with the general prevailing rate of per diem wages and the general prevailing rate for holiday
and overtime work in the locality applicable to this Lease for each craft, classification, or type of
workman needed to execute the aforesaid improvements or modifications. The rates are available
19 from the Director of the State Department of Industrial Relations at the following website:
<http://www.dir.ca.gov/dlsr/DPreWageDetermination.htm>. LESSOR shall post a copy of such wage
21 rates at the job site and shall pay the adopted prevailing wage rates at all times for all improvements
or modifications to be completed for COUNTY within the Premises. LESSOR shall comply with the
23 provisions of Sections 1775 and 1813 of the Labor Code.

25 As required by applicable law, LESSOR shall maintain certified payroll records for all workers that will
be assigned to the improvements or modifications. Said payroll records shall contain, but not be
27 limited to, the complete name, address, telephone number, social security number, job classification,
and prevailing wage rate for each worker. Upon request LESSOR shall provide the District Attorney
29 updated, certified payroll records for all workers that shall include, but not be limited to, the weekly
hours worked, prevailing hourly wage rates, and total wages paid.

31 If LESSOR neglects, fails, or refuses to provide said payroll records upon request, and LESSOR was
33 otherwise required to maintain such records by applicable law, such occurrence shall constitute an
event of default of this Lease and COUNTY may, notwithstanding any other termination provisions
35 contained herein, terminate this Lease upon written notice to LESSOR.

37 Except as expressly set forth in this Lease, nothing herein is intended to grant authority for LESSOR
to perform improvements or modifications on space currently leased by COUNTY or for which
39 COUNTY has entered into a lease or lease amendment.

1 **21. RIGHT TO WORK AND MINIMUM WAGE LAWS (6.13 S)**

3 In accordance with the United States Immigration Reform and Control Act of 1986, LESSOR shall
5 require its employees that directly or indirectly service the Premises or terms and conditions of this
7 Lease, in any manner whatsoever, to verify their identity and eligibility for employment in the United
9 States. LESSOR shall also require and verify that its contractors or any other persons servicing the
11 Premises or terms and conditions of this Lease, in any manner whatsoever, verify the identity of their
13 employees and their eligibility for employment in the United States.

15 Pursuant to the United States of America Fair Labor Standard Act of 1938, as amended, and State of
17 California Labor Code, Section 1178.5, LESSOR shall pay no less than the greater of the Federal or
19 California Minimum Wage to all its employees that directly or indirectly service the Premises, in any
21 manner whatsoever. LESSOR shall require and verify that all its contractors or other persons
servicing the Premises on behalf of the LESSOR also pay their employees no less than the greater of
the Federal or California Minimum Wage.

LESSOR shall comply and verify that its contractors comply with all other Federal and State of
California laws for minimum wage, overtime pay, record keeping, and child labor standards pursuant
to the servicing of the Premises or terms and conditions of this Lease. Notwithstanding the minimum
wage requirements provided for in this clause, LESSOR, where applicable, shall comply with the
prevailing wage and related requirements, as provided for in the Clause entitled LABOR CODE
COMPLIANCE of this Lease.

25 **22. NOTICES (8.1 S)**

27 All written notices pursuant to this Lease shall be addressed as set forth below or as either party may
29 hereafter designate by written notice and shall be deemed delivered upon personal delivery, delivery
by facsimile machine, or seventy-two (72) hours after deposit in the United States Mail.

31 TO: LESSOR
City of San Clemente
100 Avenida Presidio
33 San Clemente, CA 92672
Attn: City Manager
35 Phone: (949) 361-8322

TO: COUNTY
County of Orange
Sheriff/Real Property Services
320 N. Flower Street, Suite 108
Santa Ana, CA 92703
Attn: Senior Real Property Agent
(714) 834-5233

37 **23. ATTACHMENTS (8.2 S)**

39 This Lease includes the following, which are attached hereto and made a part hereof:

- 41 I. GENERAL CONDITIONS
- 43 II. EXHIBITS
 - A. Description - Premises
 - B. Plot Plan - Premises
 - 45 C. Janitorial Specifications

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1 IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above
3 written.

5 **APPROVED AS TO FORM:**

7 OFFICE OF COUNTY COUNSEL
9 ORANGE COUNTY, CALIFORNIA

11 By: _____
13 Deputy

15 Date: _____

LESSOR

City of San Clemente

By: _____

Title: _____

17 **RECOMMENDED FOR APPROVAL:**

19 Sheriff/Real Property Services

21 By: _____
23

ATTEST

By: _____

Title: _____

25 Signed and certified that a copy of this
27 document has been delivered to the Chair of
29 the Board per G.C. Sec. 25103, Resolution 79-
1535

31 Attest:
33

35 _____
37 Susan Novak
39 Clerk of the Board of Supervisors
41 Orange County, California

CITY ATTORNEY

By: _____

Title: _____

COUNTY

COUNTY OF ORANGE

Chair, Board of Supervisors.
Orange County, California

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GENERAL CONDITION (9.1 S – 9.17 S)

1. LEASE ORGANIZATION (9.1 S)

The various headings in this Lease, the numbers thereof, and the organization of the Lease into separate sections and paragraphs are for purposes of convenience only and shall not be considered otherwise.

2. INSPECTION (9.2 S)

LESSOR or its authorized representative shall have the right at all reasonable times and upon reasonable advance notice to COUNTY to inspect the Premises to determine, if COUNTY is complying with all the provisions of this Lease.

3. SUCCESSORS IN INTEREST (9.3 S)

Unless otherwise provided in this Lease, the terms, covenants, and conditions contained herein shall apply to and bind the heirs, successors, executors, administrators, and assigns of all the parties hereto, of whom all shall be jointly and severally liable hereunder.

4. DESTRUCTION OF OR DAMAGE TO PREMISES (9.4 N)

“Partial Destruction” of the Premises shall mean damage or destruction to the Premises, for which the repair cost is less than 25 percent of the then replacement cost of the Premises (including tenant improvements), excluding the value of the land.

“Total Destruction” of the Premises shall mean damage or destruction to the Premises, for which the repair cost is 25 percent or more of the then replacement cost of the Premises (including tenant improvements), excluding the value of the land.

In the event of a Partial Destruction of the Premises, LESSOR shall immediately pursue completion of all repairs necessary to restore the Premises to the condition which existed immediately prior to said Partial Destruction. Said restoration work (including any demolition required) shall be completed by LESSOR, at LESSOR’s sole cost, within sixty (60) days of the occurrence of said Partial Destruction or within an extended time frame as may be authorized, in writing, by COUNTY. The Partial Destruction of the Premises shall in no way render this Lease and/or any option to purchase, granted herein, null and void; however, should LESSOR fail to complete necessary repairs, for any reason, within sixty (60) days, or other time frame as may be authorized by COUNTY, COUNTY may, at COUNTY’s sole option, terminate the Lease or complete necessary repair work and COUNTY shall submit an invoice to LESSOR for the cost thereof, including COUNTY overhead and LESSOR shall pay said invoice within thirty (30) days after receipt.

In the event of Total Destruction of the Premises or the Premises being legally declared unsafe or unfit for occupancy, this Lease and/or any option granted herein shall in no way be rendered null and void and LESSOR shall immediately instigate action to rebuild or make repairs, as necessary, to

1 restore the Premises (including replacement of all tenant improvements) to the condition which existed
2 immediately prior to the destruction. In the event LESSOR refuses to diligently pursue or is unable to
3 restore the Premises to an occupiable condition (including replacement of all tenant improvements)
4 within 180 days of the occurrence of said destruction or within an extended time frame as may be
5 authorized, in writing, by COUNTY, COUNTY may, at COUNTY's sole option, terminate this Lease or
6 complete the restoration and COUNTY shall submit an invoice to LESSOR for the cost thereof,
7 including COUNTY overhead and LESSOR shall pay said invoice within thirty (30) days after
8 receipt.

9
10 Further, LESSOR, at COUNTY's request, shall provide a suitable, COUNTY-approved temporary
11 facility ("Facility") for COUNTY's use during the restoration period for the Premises. The Facility may
12 be leased, at market rate, under a short term lease, for which the COUNTY will reimburse LESSOR
13 the cost thereof, on a monthly basis.

14 **5. AMENDMENT (9.5 S)**

15
16 This Lease sets forth the entire agreement between LESSOR and COUNTY and any modification
17 must be in the form of a written amendment.

18 **6. PARTIAL INVALIDITY (9.6 S)**

19
20 If any term, covenant, condition, or provision of this Lease is held by a court of competent jurisdiction
21 to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force
22 and effect and shall in no way be affected, impaired, or invalidated thereby.

23 **7. CIRCUMSTANCES WHICH EXCUSE PERFORMANCE (9.7 S)**

24
25 If either party hereto shall be delayed or prevented from the performance of any act required
26 hereunder by reason of acts of God, performance of such act shall be excused for the period of the
27 delay; and the period for the performance of any such act shall be extended for a period equivalent to
28 the period of such delay. Financial inability shall not be considered a circumstance excusing
29 performance under this Lease.

30 **8. STATE AUDIT (9.8 S)**

31
32 Pursuant to and in accordance with Section 8546.7 of the California Government Code, in the event
33 that this Lease involves expenditures and/or potential expenditures of State funds aggregating in
34 excess of ten thousand dollars (\$10,000), LESSOR shall be subject to the examination and audit of
35 the Auditor General of the State of California for a period of three years after final payment by
36 COUNTY to LESSOR under this Lease. The examination and audit shall be confined to those matters
37 connected with the performance of the contract, including, but not limited to, the costs of administering
38 the contract.

39 **9. WAIVER OF RIGHTS (9.9 S)**

40
41 The failure of LESSOR or COUNTY to insist upon strict performance of any of the terms, conditions,
42 and covenants in this Lease shall not be deemed a waiver of any right or remedy that LESSOR or
43

COUNTY may have, and shall not be deemed a waiver of any right or remedy for a subsequent breach or default of the terms, conditions, and covenants herein contained.

10. HOLDING OVER (9.10 S)

In the event COUNTY shall continue in possession of the Premises after the term of this Lease, such possession shall not be considered a renewal of this Lease but a tenancy from month to month and shall be governed by the conditions and covenants contained in this Lease.

11. HAZARDOUS MATERIALS (9.11 S)

LESSOR warrants that the Premises are free and clear of all hazardous materials or substances.

12. EARTHQUAKE SAFETY (9.12 S)

LESSOR warrants that the Premises are in compliance with all applicable seismic safety regulations and building codes.

13. QUIET ENJOYMENT (9.13 S)

LESSOR agrees that, subject to the terms, covenants and conditions of this Lease, COUNTY may, upon observing and complying with all terms, covenants and conditions of this Lease, peaceably and quietly occupy the Premises.

14. PROCESSING FEES (9.14 S)

LESSOR shall compensate COUNTY for the administrative costs absorbed by COUNTY which occur as a result of negotiating and administering documents (i.e., Subordination, Attornment and Non-Disturbance Agreements and Estoppel Certificates) required to satisfy LESSOR's Lender whether or not said Lender decides to grant a loan to LESSOR. Said compensation amount shall be determined by multiplying the hourly rate of COUNTY's (insert agency name) by the number of hours spent to negotiate, prepare and execute said documents and shall be paid to COUNTY within thirty (30) days of LESSOR's receipt of COUNTY's invoice for said administrative services.

15. WAIVER OF JURY TRIAL. (9.15 S)

Each party acknowledges that it is aware of and has had the advice of Counsel of its choice with respect to its rights to trial by jury, and each party to the extent permitted by applicable law, for itself and its successors and assigns, does hereby expressly and knowingly waive and release all such rights to trial by jury in any action, proceeding or counterclaim brought by any party hereto against the other (and/or against its officers, directors, employees, agents, or subsidiary or affiliated entities) on or with regard to any matters whatsoever arising out of or in any way connected with this agreement and/or any claim of injury or damage.

6 B-15

1 **16. GOVERNING LAW AND VENUE. (9.16 S)**

3 This agreement has been negotiated and executed in the State of California and shall be governed by
5 and construed under the laws of the State of California. In the event of any legal action to enforce or
7 interpret this agreement, the sole and exclusive venue shall be a court of competent jurisdiction
located in Orange County, California, and the parties hereto agree to and do hereby submit to the
jurisdiction of such court, notwithstanding Code of Civil Procedure section 394.

9 **17. TIME (9.17 S)**

11 Time is of the essence of this Lease.

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EXHIBIT A

LEASE DESCRIPTION (11.1 S)

PROJECT NO: GA 1227-43-2

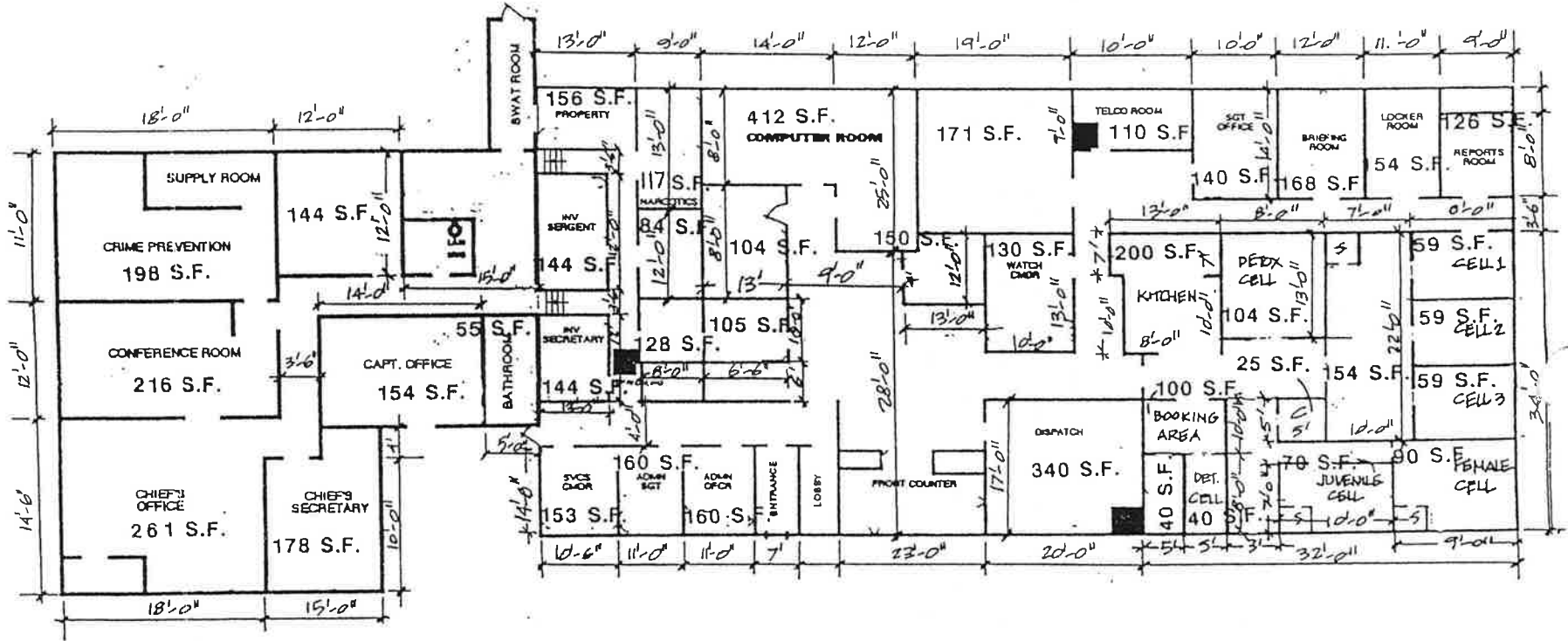
DATE: June 22, 2010

PROJECT: San Clemente Sheriff Substation

VERIFIED BY: RGW

All the Premises shown crosshatched on a plot plan marked **Exhibit B**, attached hereto and made a part hereof, being that certain building and adjacent grounds located at 100 Avenida Presidio, San Clemente, County of Orange, State of California, together with the non-exclusive use of the parking spaces marked as "County Parking Area A" and the exclusive use of the parking spaces marked as "County Parking Area B".

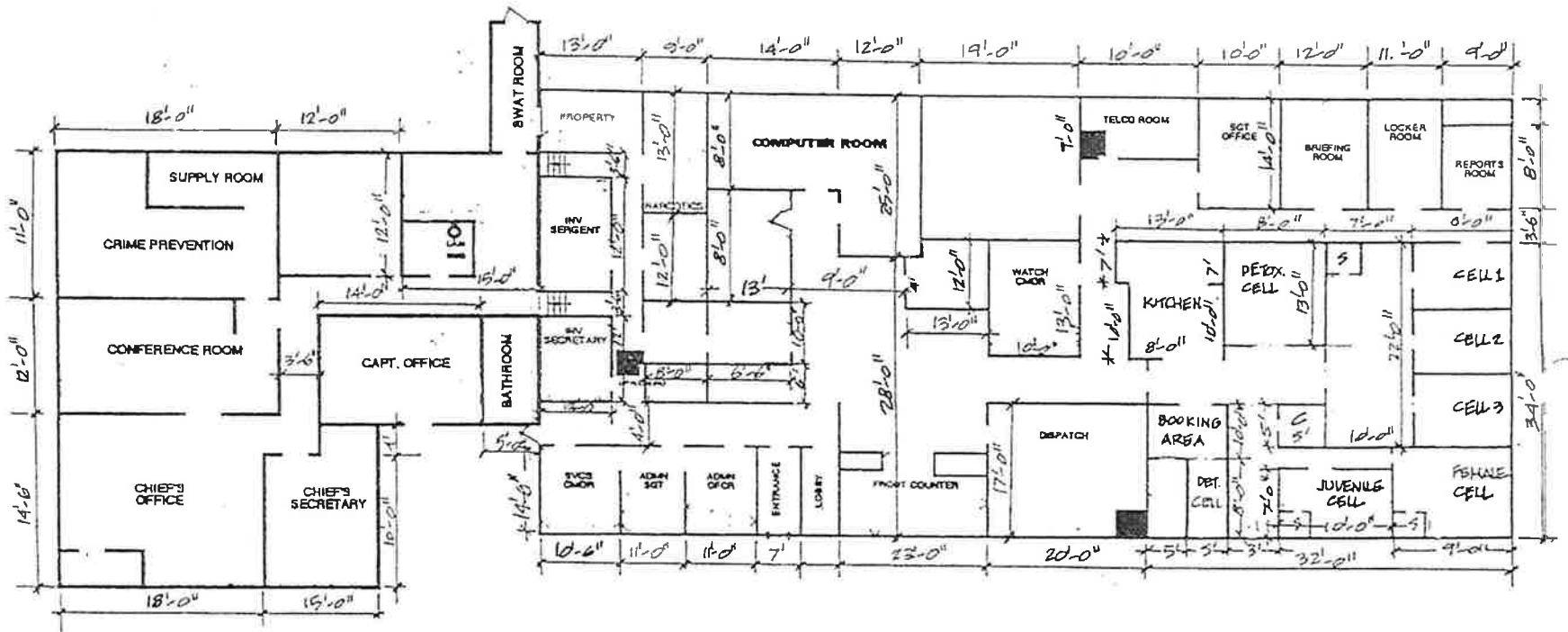
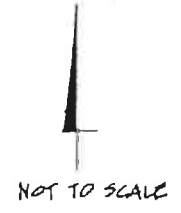
NOT TO BE RECORDED



POLICE ADMINISTRATION AREA

SQUARE FOOTAGE AND DIMENSIONS ARE APPROXIMATE

6 B-18



POLICE ADMINISTRATION AREA

6 B-14

Exhibit "B"
County Parking A & B



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6 B 20

JANITORIAL SPECIFICATIONS (11.3 S)

It is the intent of this Exhibit to provide general guidelines for minimum janitorial service. Any absence of a specific janitorial service from this Exhibit does not relieve LESSOR of the obligation to provide such service should it become necessary.

“Five-day-per-week” janitorial service as required in Clause 12 entitled (REPAIR, MAINTENANCE AND JANITORIAL SERVICE) of this Lease, shall be inclusive of, but not limited to, the services as detailed below:

OFFICE AREAS

NIGHTLY: Monday through Friday, inclusive. (Holidays of the County of Orange excepted).

1. Empty and clean all waste receptacles, supply liners for waste receptacles, replace light bulbs and fluorescent tubes, remove waste materials from the Premises and wash receptacles as necessary;
2. Mop all uncarpeted areas;
3. Vacuum all carpeted areas in offices, lobby and corridors;
4. Hand-dust all office furniture, fixtures and all other horizontal surfaces;
5. Remove all finger marks and smudges from doors, door frames, around light switches, private entry glass and partitions;
6. Wash, clean and polish water fountain;
7. Spot clean carpet as necessary;
8. Clean sink and wipe down tables and counter areas in all break areas and coffee bars.

WEEKLY:

1. Wipe clean and polish all metal and bright work;
2. Mop and polish all resilient flooring;
3. Dust in place all picture frames, charts, graphs, and similar wall hangings;
4. Spot-clean all wall marks;
5. Sweep all sidewalks and ramps.

MONTHLY:

1. Dust all mini-blinds within the Premises;
2. Vacuum all HVAC vents, high moldings and other areas not reached by nightly or weekly cleaning;
3. Scrub and wax uncarpeted floors.

SEMI-ANNUALLY:

1. Clean ceiling light diffusers;
2. Clean carpet in high traffic areas (corridors, near lunchroom, etc.) and other areas as needed;
3. Clean interior walls, as needed;
4. Strip and wax uncarpeted floors.

ANNUALLY:

1. Clean carpet throughout Premises.

RESTROOMS

NIGHTLY:

1. Clean and damp-mop floors;
2. Wash all mirrors, bright work and enameled surfaces;
3. Wash and sanitize all basins, bowls, urinals, and toilet seats;
4. Dust, clean, and wash where necessary, all partitions, tile walls, dispensers, and receptacles;
5. Empty and sanitize all receptacles and sanitary napkin disposals;
6. Provide materials and fill all toilet tissue, towel, seat cover, sanitary napkin, and soap dispensers.

MONTHLY:

1. Machine strip restroom floors and apply finish/sealer where applicable;
2. Wash all partitions, tile walls, and enamel surfaces;
3. Vacuum all louvers, vents, and dust light fixtures.

MISCELLANEOUS SERVICES

1. Maintain building lobby, corridors, and other public areas in a clean condition;
2. Parking lot is to be cleaned on a monthly basis;
3. All interior and exterior windows of the building are to be cleaned quarterly.

SUSTAINABILITY

COUNTY seeks to promote sustainability principles into its business operation by promoting responsible use of materials and equipment and encourages LESSOR to adopt a similar business philosophy in maintaining the Premises. Some possible sustainability concepts and practices LESSOR may promote in its sustainability plan include, but is not limited to the following:

1. Utilizing green suppliers/vendors
2. Recycling and resource recovery
3. Identify and utilize energy efficient products
4. Cost and value appropriately sustainability options

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